REMARKS

Claims 20-29, 34 and 35 are pending for consideration.

The foregoing amendments to the claims place this application fully in condition for allowance, and certainly in better condition for any appeal. Accordingly, entry of this amendment and allowance of all claims are respectfully solicited.

Claims 20-28, of which claims 20 and 23 are independent, were rejected under 35 U.S.C. § 103(a) over Kitada in view of Matsuzaki and Saito.

Applicants' amended claim 20 recites that the data stream includes both general and pay-per-view programming, and the step of charging plural receivers the billing amount of a pay-per view program for one receiver even if the program is received at multiple receivers. These features are neither taught nor suggested by the applied prior art.

The Office Action cites Kitada at col. 1, ln. 47 - col. 16 (no line number identified). Applicants have carefully reviewed these 16 columns of Kitada, but find no such disclosure as to how Kitada bills pay-per-view programming. Applicants note that pay-per-view programming -- in which a fixed fee is paid to watch a specific program or collection of related programs (e.g., a miniseries) -- differs from other types of programming in which is fixed fee is paid to access a channel or group of channels for a period of time. Kitada does not specifically address billing for pay-per-view programming.

Matsuzaki is similarly silent on this feature. Matsuzaki discusses how to bill for all the programming that its system receives (so-called "pay information"). There is no specific disclosure on billing procedures for pay-per-view programming. Also, Matsuzaki does not charge a billing amount for a single receiver even if plural receivers receive the transmitted content, as recited in claim 20. Quite to the contrary, Matsuzaki criticizes such practices (col. 2,

ln. 59 - col. 3, ln. 39) and proposes a new system in which an incremental amount is charged for each additional receiver that is displaying the same content (*see, e.g.*, col. 15, ln. 62 - col. 16, ln. 2 for the discount charge per added receiver, and col. 20, lns. 8-42 for how the discount is applied for multiple receivers). This disclosure is the polar opposite of the language of claim 20.

This distinction similarly counsels against the combination of Kitada and Matsuzaki. Specifically, the Office Action states that Kitada teaches billing the same amount for individual and plural receivers. Yet Matsuzaki criticizes this approach and suggests that different charges should be applied based on the number of receivers. On this basis alone, the references teach directly away from each other and should not be combined. In the alternative, combination of Kitada and Matsuzaki for any purpose would carry the suggestion to modify Kitada to adopt Matsuzaki's billing approach, which teaches directly away from Applicants' claim 20.[1]

The additional citation of Saito does not provide what is lacking from the above references. The rationale of the Office Action that Saito teaches certain billing methods for general programming or premium channels has no bearing on Applicants' claim 20, which recites the billing treatment of pay-per-view programming. It is well known in the art of commercial cable and satellite television services that only the receiver that pays for the pay-per-view program can display the program. Nothing in Saito teaches or suggests modification to this well known commercial approach.

Accordingly, none of the cited references, either alone or in combination, teach Applicant's novel and non-obvious billing methodology for pay-per-view programming.

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[1] References must be considered as those of skill would consider them, *i.e.*, in their entireties. The Examiner is not free to cherry pick desired features from different references and allege the combination of such isolated features when the references as a whole teach away from such combination. In other words, the Examiner may not combine a desirable feature from Kitada with a desirable feature of Matsuzaki when Kitada and Matsuzaki as a whole teach away from each other.

Nor do any of the references teach or suggest the application of group ID numbers for assessing charges as recited Applicants' claim 20. Kitada disclosed that receivers are divided into plural groups that are assigned to the divided group units. The group ID is used for rewriting the contract information of each group, but is not used for charging plural receivers. Matsuzaki uses individual ID codes to assess individual use by each receiver, but does not teach or suggest the use of group codes. Saito only discloses using individual ID's for certain scrambled channels. In contrast to all of these teachings, the invention of Applicants' claim 20 has an individual and group identifier assigned to each receiver, which allows the simple billing alternative of charging for each receiver or charging for only one receiver even when several receivers receive the same programming.

Applicant's claim 20 has also been amended to recite that "selectively applying of the billing amount for the one receiver or the common group" is based on a determination of the carrier. In the applied references, there is no opportunity for a carrier to select between billing methodologies. Applicants' claim 20 is therefore patentably distinct on this additional and independent basis.

Accordingly, claim 20 is patentably distinct over the applied prior art. Withdrawal of the rejection of claim 20 and allowance of the same are therefore respectfully requested.

Claim 22, which depends from claim 20, is patentably distinct over the applied art for at least the reasons discussed with respect to claim 20. In addition, claim 22 recites "each receiver receives a descriptor that indicates that either receiver-unit accounting or group-unit accounting is to be applied to the pay-per-view program." The Office Action citation of Kitada at col. 1, ln. 14 - col. 2, ln. 14 disclosed identifiers for distinguishing from other packets such as program

information. There is no disclosure of any identifier that indicates that either receiver-unit accounting or group-unit accounting is to be applied to the pay-per-view program.

With respect to Applicants' independent claim 23, the applied references similarly fail to teach or suggest the claimed combination for the reasons discussed with respect to claim 20. In addition, ten lines of paragraph 7 of the Office Action identify terms from claim 23 that are not found in Kitada reference, including

> ...a data stream including general and pay-per-view programming transmitted from a transmitting end, wherein the plural receivers have a common group ID number;
>
> notifying the transmitting end of the individual ID number stored in a first receiver among plural receivers belonging to the common group;
>
> notifying the transmitting end of the individual ID number of at least one additional receiver that belongs to the common group of the first receiver, and information indicating that the additional receiver and the first receiver belong to the common group;

While the rationale of the Office Action generally points to Matsuzaki at col. 15, ln. 38 - col. 16, ln. 59 for such teachings, this passage of Matsuzaki only teaches an example for billing display of programming by multiple receivers. There is no discussion of any kind of any exchange of individual or group ID numbers between the transmitting end and the receiving end.

Claim 23 is accordingly patentably distinct over the applied art. Withdrawal of the rejection of claim 23 and allowance of the same are therefore respectfully requested.

Claims 21 and 24-29, which depend from independent claims 20 or 23 (either directly or indirectly through intervening claims), are patentably distinct over the prior art for at least the reasons discussed with respect to independent claims 20 and 23. Withdrawal of the rejection of the dependent claims and allowance of the same are therefore respectfully requested.

Accordingly, the application is now in condition for allowance and a notice to that effect is respectfully requested.

Any amendments to the claims not specifically argued to overcome a rejection based upon the prior art have been made for clarity, a purpose unrelated to patentability.

If a telephone conference would be of value, the Examiner is requested to call Applicants' undersigned attorney at the number listed below.

The Commissioner is hereby authorized to charge/credit any fee deficiencies or overpayments to Deposit Account No. 19-4293 (Order No. 28951.1099).

Respectfully submitted,

STEPTOE & JOHNSON

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